IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 12873 of 2004

Between:

Gompa Srinivasa Rao, s/o late G.Venkata Rao,
Koruprolu Village, S.Rayavaram Mandal, Visakhapatnam District.

..... PETITIONER

AND

1 The Commissioner of Cooperation and Registrar of Cooperative Societies, A.P., Gruhakalpa Building, Hyderabad.
2 The District Co.operative Officer, Visakhapatnam, Visakhapatnam District.
3 The Divisional Cooperative Officer, Yelamanchali, Visakhapatnam District.
4 Koruprolu PACS rep., by its Chairperson S.Rayavaram Mandal, Visakhapatnam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction more particularly one in the nature of writ of mandamus declaring the order dated 1-7-2004 of the 4th respondent society as highly illegal, arbitrary, void and consequently set aside the same.

Counsel for the Petitioner:MR.D.V.NAGARJUNA BABU

Counsel for the Respondent Nos.1 to 3 : GP FOR CO-OPERATION

Counsel for the Respondent Nos.4 : --

The Court made the following :

O R D E R:

The petitioner who worked as Attender in the 4th respondent Society, filed this writ petition, questioning the order of termination issued by the 4th respondent Society, dated 01.06.2004.

The grounds mentioned in the termination order are that the appointment of the petitioner in the Society is in violation of A.P. (Regulation of appointments to Public Service & Rationalisation of staffing pattern and Pay Structure) Act 1994 and his appointment is not approved by the Registrar of Co-operative Societies, required under Section 116-C of the Andhra Pradesh Co-operative Societies Act.

On an earlier occasion, this Court in similar matters in W.P.No.3171 of 2003 & batch, dated 30.08.2004 held that if the appointment of the existing staff of the Society are made in conformity with the mandatory provisions of Section 116-C of the Act, it cannot be said that their appointments are in violation of Act 2 of 1994. As the appointment of the petitioner is not in violation of Section 116-C, read with Rules 28(4) & 36-B of the Rules, his services cannot be terminated.

In view of the above, the impugned proceedings, dated 01.06.2004 are liable to be set aside and are accordingly set aside.

The writ petition is accordingly allowed, keeping it open for the 4th respondent

Society to pass appropriate orders in accordance with the provisions of Section 116-C of the Andhra Pradesh Cooperative Societies Act. No costs.

V.ESWARAIAH

tjs

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Friday the fifth day of November, Two Thousand and Four.

ASSISTANT REGISTRAR

To

1 The Commissioner of Cooperation and Registrar of Cooperative Societies, A.P., Gruhakalpa Building, Hyderabad.
2 The District Co.operative Officer, Visakhapatnam, Visakhapatnam District.
3 The Divisional Cooperative Officer, Yelamanchali, Visakhapatnam District.
4 Chairperson, Koruprolu PACS., S.Rayavaram Mandal, Visakhapatnam District.

5 2CCs to the G.P. for Co-operation, High Court of A.P., Hyderabad.(OUT)

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